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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------|-------------|----------------------|---------------------|------------------|
| 10/712,261 | 11/14/2003 | James D. Velke | 3696-61 | 8053 |
| 23117 | 7590 | 12/21/2005 | EXAMINER | |
| NIXON & VANDERHYE, PC | | | KOVACS, ARPAD F | |
| 901 NORTH GLEBE ROAD, 11TH FLOOR | | | | |
| ARLINGTON, VA 22203 | | | ART UNIT | PAPER NUMBER |
| | | | 3671 | |

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|---------------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/712,261 | VELKE ET AL. |
| | Examiner Árpád Fábián Kovács | Art Unit 3671 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 and 18-26 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,4-6 and 18-26 is/are rejected.
- 7) Claim(s) 2 and 3 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4-6, 18-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Bellis, Jr (6488291).

Bellis discloses:

cl. 1:

a walk behind lawn mower comprising:

an engine (1);

a sulky with a foot platform (24) & a forward arm (36);

a latch assembly includes a pivotal spring biased latch having a recess (62; recess at ref 64);

a buttress plate located forward of the latch (rear surface, ref 40);

when the sulky is pivoted into folded position, the latch assembly capable of holding the sulky in the stowed position at a protruding part of the sulky (although not a limitation, i.e. functionally claimed, protruding element of the sulky, ref 54);

cl. 4:

a walk behind lawn mower comprising:
an engine (1);
a sulky with a foot platform (24) & a forward arm (36);
a latch assembly includes a pivotal spring biased latch having a recess (62; recess at ref 64);
when the sulky is pivoted into folded position, the latch assembly capable of holding the sulky in the stowed position at a protruding part of the sulky (although not a limitation, i.e. functionally claimed, protruding element of the sulky, ref 54, capable to define an angle 30-70 degrees when in vertical position);

cl. 5:

the latch assembly is located under a dashboard of the mower (dashboard being the handle as shown in fig 1);

cl. 6:

a buttress plate located forward of the latch (rear surface, ref 40);

cl. 18-23:

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although not a limitation, i.e. functionally claimed, protruding element of the sulky, ref 54, capable to define an angle 25·70 degrees when in vertical position & located in an approx. laterally central portion of the sulky during mowing operation (fig 7);

cl. 24:

a walk behind lawn mower comprising:

an engine (1);

a sulky with a foot platform (24) & a forward arm (36);

a latch assembly includes a pivotal spring biased latch having a recess (62; recess at ref 64);

when the sulky is pivoted into folded position, the latch assembly capable of holding the sulky in the stowed position at a protruding part of the sulky (although not a limitation, i.e. functionally claimed, protruding element of the sulky, ref 54);

cl. 25·26:

although not a limitation, i.e. functionally claimed, protruding element of the sulky, ref 54, capable to define an angle 25·70 degrees when in vertical position (fig 7).

Allowable Subject Matter

3. Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments with respect to claims 1-6, 18-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carman, Martin, Bricko, Havener, Bellis, Martin, Hobrath.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK